

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG**

WARREN T. WADE,

Plaintiff,

v.

**CIVIL ACTION NO.: 3:14-CV-34
(GROH)**

**J. WINSLOW, Correctional Officer, and
M. COREY, Correctional Officer,**

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION

This matter, brought under 42 U.S.C. § 1983, is before the Court for consideration of the Report and Recommendation (“R&R”) of United States Magistrate Judge Robert W. Trumble [ECF 35]. The R&R concerns the Defendants’ Motion to Dismiss [ECF 20] this case pursuant to Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim upon which relief can be granted.¹ ECF 35. Viewing the complaint as raising an Eighth Amendment claim against each defendant, the R&R recommends dismissing the claim against M. Corey with prejudice but allowing the Plaintiff to pursue his claim against J. Winslow.

This Court must review *de novo* those portions of the magistrate judge’s findings to which objection is made. 28 U.S.C. § 636(b)(1)(c). The Court is not required, however, to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. Thomas v. Arn, 474 U.S. 140, 150 (1985). Failure to file timely

¹ Pursuant to this Court’s Local Rules, this action was referred to Magistrate Judge Trumble for submission of an R&R.

objections constitutes a waiver of *de novo* review and the right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); Snyder v. Ridenour, 889 F.2d 1363, 1366 (4th Cir. 1989); United States v. Schronce, 727 F.2d 91, 94 (4th Cir. 1984). No party has filed objections to the R&R. Thus, this Court will review the R&R for clear error.

Upon careful review of the R&R, it is the opinion of this Court that the Report and Recommendation should be, and is, hereby **ORDERED ADOPTED** for the reasons more fully stated in the magistrate judge's report.


Accordingly, the Court **GRANTS** the Motion to Dismiss **IN PART**. The Court **GRANTS** the Motion to Dismiss the claim against Defendant M. Corey and **DENIES** the Motion to Dismiss the claim against Defendant J. Winslow.

The Court **ORDERS** that the claim asserted by the Plaintiff against Defendant M. Corey is hereby **DISMISSED WITH PREJUDICE**.

The Court **FURTHER ORDERS** that the Clerk terminate M. Corey as a defendant.

The Clerk is directed to transmit copies of this Order to all counsel of record and *pro se* parties.

DATED: July 20, 2015


GINA M. GROH
CHIEF UNITED STATES DISTRICT JUDGE